

for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

Subject to and without waiving the foregoing objections, OFCCP incorporates its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. OFCCP further responds that that upon initiating a compliance review of Oracle's headquarters in Redwood Shores, California, OFCCP conducted a comprehensive analysis and evaluation of the hiring and employment practices of Oracle, the written affirmative action program (AAP), and the results of the affirmative action efforts undertaken by Oracle, including a desk audit, on-site review and off-site analysis.

Specifically, OFCCP analyzed and evaluated Oracle's AAP and supporting documentation, and other documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether Oracle complied with the requirements of the Executive Order, VEVRRRA, Section 503 and their implementing regulations, including but not limited to: employment policies, practices, records, and actions;

management, human resources, non-management employee, and former employee statements; employee complaints; one-year of individual employee compensation data and other evidence; Labor Condition Applications; Oracle's compliance history by reviewing OFCCP internal database system, and review any information received from EEOC, State or local FEP, and/or other labor and employment agencies, such as the Department of Labor's Veterans' Employment and Training Service and Wage and Hour Division, and publically available company information; and Oracle's hiring data, workforce data and appropriate labor market workforce availability statistics. OFCCP also obtained and analyzed any complaints filed against Oracle through the Equal Employment Opportunity Commission (EEOC), the State and/or Local Fair Employment Practice (FEP) agency, and/or other government agencies. Additionally, OFCCP requested additional information from Oracle during the compliance review that Oracle withheld (*see* Amended Complaint ¶¶ 11-15) that is relevant to a determination of whether Oracle complied with the requirements of the Executive Order and the regulations.

OFCCP further responds that during the compliance review of Oracle headquarters, OFCCP evaluated and analyzed Oracle's compensation information and evidence gathered in the investigation and found statistically significant pay disparities based upon gender between females and males after controlling for legitimate explanatory factors in the Information Technology, Product Development, and Support lines of business. Within these lines of business, OFCCP controlled for the following factors: job title, full-time/part-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure/work experience at Oracle. Even after controlling for such factors in the analysis, female employees were paid significantly less than male employees in the Information Technology, Product Development, and Support lines of business. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 3:

Identify by name and last known contact information each PERSON with knowledge of the facts alleged in Paragraph 7 of the Amended Complaint, including the nature of the facts of which the PERSON identified has knowledge.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the Interrogatory on the basis that it is compound, vague and ambiguous as to "nature of the facts," "knowledge of the facts," and "contact information." "Nature of facts" is so unintelligible that it is unclear what Oracle is seeking. For example, is nature of the facts the date the person acquired the facts, how he acquired the facts, who he acquired the facts from, the contents of the facts, when the facts occurred, who observed or witnessed the facts, etc. In terms of knowledge of the facts: it is not known if Oracle was referring to personal knowledge, constructive knowledge, third-hand knowledge, hearsay knowledge, etc. It is not clear what Oracle means by contact information, is it a person home telephone number, is it a person's business address, etc.

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this request, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who has knowledge of the discrimination.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of the discrimination so that OFCCP can identify all of the people who have knowledge of the discrimination.

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" if the nature of the facts includes every fact, however, minor that the person knows regardless of how the person obtained knowledge of the alleged fact.

OFCCP objects to this interrogatory as it is making two distinct information requests in one interrogatory – identify the name, job title and contact information of the person with knowledge, and the content/nature of this knowledge. OFCCP will count this as two interrogatories.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.

OFCCP further objects to the Interrogatory to the extent it seeks each individual's contact information for individuals that are represented by counsel. OFCCP's personnel (current or former) may be contacted through OFCCP's counsel at the Office of the Solicitor.

Subject to and without waiving the foregoing objections, OFCCP responds that the following persons, excluding OFCCP attorneys at the Office of the Solicitor, may have knowledge of the facts giving rise to the allegations made in the Amended Complaint include:

Oracle employees, supervisors and managers employed by Oracle during the review period; former employees, supervisors and managers of Oracle; and OFCCP personnel listed in response to Interrogatory No. 1. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 4:

As to each qualified female employee allegedly discriminated against as referenced in Paragraph 7 of the Amended Complaint, identify by name and job title the comparable male or males employed in similar roles.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive

documents that were not covered by the protective order, and has produced information responsive only to a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature Interrogatory because Oracle is attempting to benefit from its unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its response to Interrogatory No. 2, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the

NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of male employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable male employees in similar roles to female employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of females in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014 through the present, OFCCP expects that additional males, as well female victims of discrimination, will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 5:

For each qualified female employee allegedly discriminated against as referenced in Paragraph 7 of the Amended Complaint, state all facts that support the allegation that the male(s) identified as similarly situated and comparable were similarly situated and comparable.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive only to a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature Interrogatory because Oracle is attempting to benefit from its unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2 and 4, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of male employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable male employees in similar roles to female employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of females in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that it determined which roles were similar by reviewing evidence gathered during the compliance review. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014, through the present, OFCCP expects that additional comparable males, as well female victims of discrimination, will be identified. OFCCP will supplement this response as

more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 6:

State all facts that support the table contained in Paragraph 7, which table contains the headings "Class," "Number of Female Class Members," and "Standard Deviations," including the statistical data used, the analysis and methodologies used, the computations used to determine the standard deviations, and the identities of the female employees.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this

Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this Interrogatory to the extent it implies that OFCCP was required to allege statistical data. Statistical data supporting OFCCP's claims of discrimination will be developed and refined, during and after discovery. Tying OFCCP to a particular set of statistics at the pleading stage would be both unfair and inefficient.² The time for assessing OFCCP's statistical evidence, including whether it accounts for all relevant variables, is after discovery has closed and the case is tried.³ Further, it is impossible for OFCCP to make any refinements

² See *Jenkins*, 646 F.Supp.2d 469 ("It would be inappropriate to require a plaintiff to produce statistics to support her disparate impact claim before the plaintiff has had the benefit of discovery").

³ See *Barrett*, 39 F.Supp.3d 430.

to statistics in this case until Defendants produce the myriad relevant records they refused to provide to OFCCP and have not yet produced in discovery.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive only to a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature Interrogatory because Oracle is attempting to benefit from its unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of